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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/502,426	02/11/00	AZPIROZ R	2225-0001

020855   HM12/0618
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EXAMINER
MEHTA, A

ART UNIT	PAPER NUMBER
1638	9

DATE MAILED: 06/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

	Application No.	Applicant(s)
	09/502,426	AZPIROZ ET AL.
	Examiner	Art Unit
	Ashwin Mehta	1638

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _1_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☐ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-57_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims _1-57_ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other: _____ .

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-16, 18-35, 38-45, and 49-51, drawn to an isolated dwf4 polynucleotide; a recombinant vector comprising said polynucleotide; a host cell or transgenic plant comprising said vector; a method of modulating a DWF4 polypeptide, said polynucleotide including a dwf4 control element; a method of producing a transgenic plant having an altered phenotype comprising transgenically expressing the dwf4 polypeptide, classified in class 435 subclass 468, for example.

II. Claims 17, 36, and 37, drawn to a method for modulating a DWF4 polypeptide wherein the dwf4 polynucleotide is inhibited, classified in class 800, subclass 286, for example.

III. Claims 46-48, drawn to a method for regulating cell cycle of a plant cell, classified in class 800, subclass 290, for example.

IV. Claims 52 and 53, drawn to an isolated DWF4 polypeptide, classified in class 530, subclass 370, for example.

V. Claims 54 and 55, drawn to an isolated polynucleotide fused to a second nucleic acid molecule, classified in class 536, subclass 23.1, for example.

VI. Claims 56 and 57, drawn to s chimeric polypeptide, classified in class 530, subclass 350, for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and effects. The nucleotide sequences of and methods involving alteration of a phenotype comprising expressing dwf4 of Group I do not require the inhibition of dwf4 of the method of Group II, the cell cycle regulation of Group III, the polypeptides of Groups IV and VI, nor the polynucleotide of Group V. The method comprising inhibiting dwf4 of Group II does not require the expression of dwf4 of Group I, the cell cycle regulation of Group III, the polypeptides of Group IV and VI, nor the polynucleotides of Group V. The cell cycle regulation of Group III does not require the alteration of phenotype of Group I, the inhibition of dwf4 of Group II, the polypeptides of Groups IV and VI, nor the polynucleotides of Group V. Further, the methods of Groups I-III each require different steps for the analysis of results. The polypeptides of Groups IV and VI do not require each other nor the polynucleotides and methods of the other Groups. The polynucleotides of Group V also do not require the polypeptides and methods of the other groups. Further, the amino acid and nucleic acid sequences of all the groups can be produced by alternative means, such as chemical synthesis.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required each of for Groups II-VI, restriction for examination purposes as indicated is proper.
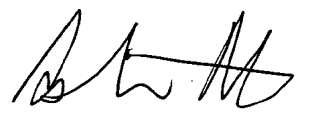
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication should be directed to Examiner Ashwin Mehta, whose telephone number is (703) 306-4540. The Examiner can normally be reached Monday-Thursday and alternate Fridays, from 8:00 A.M. - 5:30 P.M. The fax phone number for the group is (703) 305-3014. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Paula Hutzell, can be reached at (703) 308-4310. Any inquiry of a general nature or relating to the status of the application should be directed to the art unit's Patent Analyst, Gwendolyn Payne, whose telephone number is (703) 305-2475.

Ashwin D. Mehta

06/12/01

ASHWIN D. MEHTA, PH.D
PATENT EXAMINER